

REMARKS

This is a response to the Office Action dated November 26, 2007. Claims 92-124 were pending in the application at the time of examination.

In the Office Action, claims 92-94, 96 and 100 are rejected on the ground of non-statutory double patenting over claims 1, 27, 43, 57, 59-61, 75, 80 and 82 of U.S. Patent No. 6,961,641 ("Forth").

Claims 118 and 119 are rejected on the ground of non-statutory double patenting over claims 1, 2 and 6 of U.S. Patent No. 6,990,395 ("Ransom").

Claims 118, 120 and 124 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 4, 10, 12 and 15 of co-pending U.S. Application Serial No. 11/049,042.

Claims 118 and 122 are provisionally rejected on the ground of non-statutory double patenting over claims 14-17 of co-pending U.S. Application Serial No. 11/497,218.

Claims 118 and 119 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,954,814 ("Leach").

Claims 92-94, 101-103, 110-112 and 118-120 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,027,773 ("McMillin").

Claims 95-100, 104-109, 113-117, and 121-124 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McMillin, and further in view of applicants' alleged admitted prior art in the instant specification.

The rejections from the Office Action dated November 26, 2007 are discussed below. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

I. NON-STATUTORY DOUBLE PATENTING REJECTIONS

Claims 92-94, 96 and 100 are rejected on the ground of non-statutory double patenting over claims 1, 27, 43, 57, 59-61, 75, 80 and 82 of U.S. Patent No. 6,961,641. Claims 118 and 119 are rejected on the same grounds over claims 1, 2 and 6 of U.S. Patent No. 6,990,395.

Claims 118, 120 and 124 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 4, 10, 12 and 15 of co-pending U.S. Application Serial No. 11/049,042.

Claims 118 and 122 are provisionally rejected on the same grounds over claims 14-17 of co-pending U.S. Application Serial No. 11/497,218.

As will be explained in further detail below, each of independent claims 92, 101, 110 and 118 has been amended to include limitations similar to those limitations found in previously-pending dependent claims 98-99. Applicants point out that dependent claims 98-99 were not rejected on the ground of non-statutory double patenting in the Office Action. Accordingly, applicants submit that the amendments to independent claims 92, 101, 110 and 118 in the present Response overcome all of the previous non-statutory double patenting rejections.

II. REJECTIONS UNDER 35 U.S.C. § 102(e) and § 103(a)

A. Independent Claims 92, 101, 110 and 118

Independent claim 118 is rejected under 35 U.S.C. § 102(e) as being anticipated by Leach. Independent claims 92, 101, 110 and 118 are rejected under 35 U.S.C. § 102(e) as being anticipated by McMillin.

Each of independent claims 92, 101, 110 and 118 has been amended to include limitations similar to those limitations found in previously-pending dependent claims 98-99. Each of the amendments to claims 92, 101, 110 and 118 are fully support by applicants' specification.

Applicants respectfully submit that neither Leach nor McMillin, whether alone or in combination, teach or suggest an energy management device, architecture or method as recited in amended independent claims 92, 101, 110 and 118. In the Office Action, the Examiner rejected dependent claims 98-99 (which were incorporated into claim 92) under 35 U.S.C. § 103(a) as being unpatentable over McMillin, in further view of applicants' alleged admitted prior art. However, the Examiner does not address at least the limitation of "*wherein said power management data may be authenticated based on said geographical location*" in the office action. Rather, in rejecting 14 dependent claims at once, the Examiner broadly states that there is "the known capability of cellular modems to determine the location of such modems, for the benefit and purpose of assuring accurate billing, monitoring and diagnosing system faults, etc." (see Office Action dated November 26, 2007 at page 5). However, there is no remote teaching or suggestion in McMillin, or in applicants' alleged admitted prior art, concerning authentication of power management data based on a geographical location of an energy management device,

and the Examiner's broad statement in paragraph 13 of the Office Action has not pointed to any portion of any reference showing this limitation. For at least this reason, amended independent claims 92, 101, 110 and 118 are allowable.

Moreover, contrary to the Examiner's assertion, there has been no admission of prior art made in applicants' specification. The Examiner suggests that the statement "cellular modems further provide the functionality to determine the geographic location of the IED using cellular RF triangulation" is an acknowledgement of prior art. (see Office Action dated November 26, 2007, at page 5). However, the quoted statement is not admitted prior art for various reasons, for example, because it is made in the "Detailed Description of the Presently Preferred Embodiments" section of the specification, and statements made in the Detailed Description section should not be presumed as an admission of prior art. Moreover, even assuming, *arguendo*, that determining a geographic location is known, there is absolutely no remote admission in applicants' specification associated with the limitation "*wherein said power management data may be authenticated based on said geographical location.*" This is an entirely new and non-obvious concept, as discussed, for example, in paragraphs 0064 and 0079, and claimed in independent claims 92, 101, 110 and 118.

For at least this reason, independent claims 92, 101, 110 and 118 are allowable over McMillin, and anything that was allegedly admitted in applicants' specification.

B. Rejections to Dependent Claims 93-97, 100, 102-106, 109, 111-115 and 119-124

Dependent claims 93-97, 100, 102-106, 109, 111-115 and 119-124 are rejected under either 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a). For at least the reasons set forth above, independent claims 92, 101, 110 and 118 are allowable over both Leach and McMillin. Therefore, for at least the reasons that independent claims 92, 101, 110 and 118 are allowable, applicants respectfully submit that dependent claims 93-97, 100, 102-106, 109, 111-115 and 119-124 also are in condition for allowance.

CONCLUSION

Each of the rejections in the Office Action dated November 26, 2007 has been addressed and no new matter has been added. Applicants submit that all of the pending claims 92-97, 100-106, 109-115 and 118-124 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,



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